

APPEAL NO. 022023
FILED SEPTEMBER 17, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 10, 2002. The hearing officer resolved the disputed issues by determining that on _____, the appellant (claimant) was engaged in horseplay, which was a producing cause of the claimed injury; that the claimant did not sustain a compensable injury on _____; and that she did not have disability. On appeal, the claimant contends that these determinations are not supported by the evidence or, alternatively, are against the great weight and preponderance of the evidence. The respondent (self-insured) urges affirmance of the hearing officer's decision.

DECISION

We affirm the hearing officer's decision.

The hearing officer's decision and order contains a summary of the evidence. Conflicting evidence was presented on the disputed issues in this case. Whether the claimant was engaged in horseplay (an exception to carrier liability per Section 406.032(2)) at the time of the claimed injury was factual question for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 93013, decided February 16, 1993. Similarly, the issues of compensability and disability are factual determinations. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). Applying this standard, we find no grounds to reverse the decision of the hearing officer. There is sufficient evidence in the record to support the appealed findings in this case.

The decision and order of the hearing officer are affirmed.

The true corporate name of the self-insured is **(SELF-INSURED)** and the name and address of its registered agent for service of process is

**SUPERINTENDENT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Philip F. O'Neill
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge